circumstances prevailing at that time and while a speed of, say, 60 miles per hour on an open straight road with a good and dry surface and in the absence of other traffic is not necessarily dangerous or even inconsiderate, negotiating a sharp bend when the road is wet and slippery calls for a speed and for such care and attention as to ensure the safe execution of the manoeuvre.

In my view, the prosecution had adduced evidence that the bus had failed to negotiate a sharp right-hand bend. It is not the case of an accident occurring to a vehicle on its proper side of the road, as would appear to be in *Krishnan's* and *Ramasamy's* cases, *supra*. It is the case of a bus going off the road in failing to negotiate a sharp bend and ending up on the grass side-table on its left where it had no real business to be. It may be that the passenger's evidence of speed is a post-factum rationalisation of the cause of the accident but in all the circumstances of the accident, I do not think it can be said that the prosecution had not raised a *prima facie* case against the respondent. Neither can I find anywhere in the grounds of decision that the learned trial magistrate had considered the one question for him to consider and that is whether the defendant was exercising that degree of care and attention that a reasonable and prudent driver would exercise in the circumstances. In my view, the learned magistrate had not even considered the circumstances in which the accident occurred.

The appeal is allowed and the order of acquittal set aside. The case is remitted to the learned magistrate for him to call on the defence.

Appeal allowed, order of acquittal set aside.

Solicitors: *Dharmananda & Co.*

PANG KIM GUAN v. LEE CHENG LIAM

[F.C. (Tan Ah Tah F.J., Chua & Winslow JJ.) August 8, 1968]

[Singapore—Federal Court Civil Appeal No. Y9 of 1968]

Practice and Procedure — Particulars — Particulars to be given where plaintiff claims damages for injuries received in a road accident.

Damages — Claim for, for personal injuries — Further and better particulars.

When a plaintiff claims damages for injuries received in a road accident, he must, in his statement of claim, give sufficient particulars to enable the defendant, first, to identify the accident in question and, secondly, to know what exactly is the case he has to answer. It is not sufficient to state merely the particulars of the defendant's negligence. The plaintiff must give particulars of his own situation at the time of the accident and state the circumstances under which the defendant collided with him. Particulars of a defendant's negligence do not make any sense unless and until it is known where the plaintiff was and what he was doing, i.e., whether he was in motion and, if so, the direction in which he was moving, at the time of the collision.

Where in his statement of claim the plaintiff merely stated that he was "lawfully on Jalan Besar, at or near its junction with Lorong Lalat",

Held: (1) this statement gave insufficient particulars of the case which was intended to be made against the defendant at the trial;

(2) in this case the plaintiff should indicate to the best of his recollection his position upon Jalan Besar when he was run into and knocked down. Not only should he do that but he should also say whether at that time he was standing or was in motion and, if in motion, the direction in which he was moving.

Case referred to:—

(1) *Gwee Kim Bock* v. *Singapore Glass Manufacturers Co. Ltd* [1966] 2 M.L.J. 292.

FEDERAL COURT.

T. G. Dunbar for the appellant.

T. S. Tan for the respondent.

Cur. Adv. Vult.

Chua J. (delivering judgment of the court): The plaintiff (the appellant in this appeal) claimed damages against the defendant for personal injuries and loss suffered by him and caused by the negligence of the defendant in the driving of a motor vehicle.

In his statement of claim the plaintiff pleaded, *inter alia*, that:—

"On or about the 3rd day of December, 1963, the plaintiff was lawfully on Jalan Besar, at or near its junction with Lorong Lalat in the Republic of Singapore when he was run into and knocked down by motor car No. SK. 4912 which was being driven by the defendant along Jalan Besar in the direction of Lavender Street."

The defendant applied by way of summons-in-chambers for an order that the plaintiff do serve on the defendant the following further and better particulars of the statement of claim namely:—

"The point along Jalan Besar in relation to the left side thereof facing Lavender Street where the plaintiff was when he was run into and knocked down by motor car No. SK. 4912; whether the plaintiff was moving at the time of the collision and if so the direction in which he was moving."

The summons-in-chambers came before the learned Chief Justice who granted the defendant's application.

The plaintiff now appeals against that order on the ground that the decision of the Chief Justice was wrong in law.

Now what is the function of particulars? In 30 *Halsbury* p. 18 para. 37 the following passage appears:—

"The function of particulars is to limit the generality of the allegations in the pleadings, and thus to define the issues which have to be tried and as to which discovery must be given. Each party is entitled to know the case that is intended to be made against him at the trial and to have such particulars of his opponent's case as will prevent him from being taken by surprise; but a party is not entitled to an order for particulars

for the purpose of ascertaining the evidence upon which his opponent proposes to prove his case, nor is it the function of particulars to fill gaps in a statement of claim from which a material statement has been omitted."

In paragraph 38 at page 19 the following passage appears:—

"No precise rule can be laid down as to the degree of particularity required in any given case, but as much certainty and particularity is insisted on as is reasonable having regard to the circumstances and nature of the acts alleged."

We are of the view that, subject to one observation which will be made hereafter, the law is correctly stated by Choor Singh J. in *Gwee Kim Bock* v. *Singapore Glass Manufacturers Co. Ltd.*[1] where in his judgment the learned judge said:—

"In my opinion, when a plaintiff claims damages for injuries received in a road accident, he must, in his statement of claim, give sufficient particulars to enable the defendant, first, to identify the accident in question and, secondly, to know what exactly is the case he has to answer. It is not sufficient to state merely the particulars of the defendant's negligence. The plaintiff must give particulars of his own situation at the time of the accident and state the circumstances under which the defendant collided with him. Particulars of a defendant's negligence do not make any sense unless and until it is known where the plaintiff was and what he was doing at the time of the collision."

We would add however that by "what he was doing" in the above passage it should be clearly understood that it means no more than "whether he was in motion and, if so, the direction in which he was moving."

It should be noted that in the present case the plaintiff was a pedestrian who could have been lawfully anywhere on the road. In his statement of claim he has merely stated that he was "lawfully on Jalan Besar, at or near its junction with Lorong Lalat." In our view this statement gives insufficient particulars of the case which is intended to be made against the defendant at the trial. It seems to us that, in this case, the plaintiff should indicate to the best of his recollection his position upon Jalan Besar when he was run into and knocked down. Not only should he do that but he should also say whether at that time he was standing or was in motion and, if in motion, the direction in which he was moving. It seems to us that these particulars are necessary so that the defendant will know the case that is intended to be made against him at the trial.

The appeal is dismissed with costs.

Appeal dismissed.

Solicitors: *Murphy & Dunbar; Allen & Gledhill.*

PEARLSON ENTERPRISES LTD. v. HONG LEONG CO. LTD.

[F.C. (Wee Chong Jin C.J., Tan Ah Tah F.J. and Buttrose J.) November 3, 1967]

[Singapore—Federal Court Civil Appeal No. Y.38 of 1966]

Practice and Procedure — Slip rule — Amendment of order of Federal Court — Order of Federal Court allowing appeal did not specify that costs paid in court below should be refunded to successful appellants — Whether error in order arising from accidental slip or omission which could be corrected under R.S.C. 1934, O. XXIX r. 11.

Practice and Procedure — Costs — Taxed costs paid in lower court — Entitlement of successful appellant to refund of where formal order was silent — Amendment of order.

[**Editorial Note:** In *Ling Nam Rubber Works* v. *Leong Bee & Co. (No. 2)* [1968] 1 M.L.J. 265 the Federal Court allowed interest on the amount to be repaid.]

Cases cited in argument:—

(1) *Evans* v. *Main Colliery Ltd.* (1915), 31 T.L.R. 127.

(2) *Re Geipel's Patent* [1904] 1 Ch. 239.

FEDERAL COURT.

K. A. O'Connor for the appellants.

Ho Kian Ping for the respondents.

The formal order of the Federal Court dated August 7, 1967 allowing the appeal of the defendants (judgment reported in [1968] 1 M.L.J. 24) was silent on the question of the successful appellants' entitlement to a refund of the taxed costs paid by the appellants to the respondents in the court below. The respondents having declined to repay these costs, the appellants applied by motion to amend the said formal order of the Federal Court by inserting an additional clause in the order requiring that the respondents should repay the costs paid in the court below. The appellants relied on Order XXIX rule 11, commonly known as the slip rule. The respondents opposed the motion, contending, *inter alia,* that the order expressed the intention of the court, that there had accordingly been no slip or omission and that the appellants' only remedy was to commence fresh proceedings for recovery of the costs paid in the court below. They also contended that some of the costs had been paid in respect of part of the claim for which the appellants had consented to judgment in the court below. The appellants had offered, before the filing of the motion, to reduce that claim by $500 in respect of the costs relating to that part of the claim.

In an oral judgment the Federal Court held that it had jurisdiction to amend its own order under Order XXIX rule 11. The order would be amended to provide that the costs paid in the court below, less the sum of $500 in respect of